

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA NORTHERN
DIVISION

MARK SHANNON WHEELER,
Plaintiff, #139044

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V.
BILL SEGREST, et al.,
Defendant.

2007 MAY 2 11:24 AM
U.S. DISTRICT COURT
MIDDLE DISTRICT ALABAMA

Motion to be Granted Permission to Appeal Plaintiff's
denied Motion for Magistrate to Recuse himself

Comes now the Plaintiff Mark Shannon Wheeler #139044 in this Honorable District Court of the United States for the Middle District of Alabama Northern Division, and moves this said Court to "GRANT" this Motion to be Granted Permission to Appeal Plaintiff's denied Motion for Magistrate to Recuse himself.

Grounds for relief: Plaintiff Wheeler in appeal will again show Magistrate Judge in this Cause of action is prejudice against Plaintiff Wheeler, as Magistrate has shown FAVORITISM OF Defendants by Magistrate Circumventing Plaintiff Wheeler's claims which denies Plaintiff Wheeler's claims appropriate review from a proper coherent unbiased review. Defendants have not denied they did make Wheeler 22 months late for a due process review "consideration", and also did admit that when Wheeler was finally reviewed Wheeler was denied Parole and reset for 5 years AND that when Wheeler was sentenced in 1994 the MAX allowable set off, was 3 years. Wheeler has not claimed a liberty interest violation (as Parole is a Privilege), but "A Prisoner has the right to be properly considered for Parole" Christopher v. U.S. Board of Parole 589 F. 2d 924 (7th Cir. 1978); Wallace v. Turner, 525 F. Supp. 1072 (S.D. Fla. 1981). Wheeler has claimed due process of "Equal Protection" of 14th Amend U.S. Const. and Article I, Sec. 9 EX Post Facto violation because of Defendants making their 5 year set off policy adoption - "Retroactive", which IS illegal. Magistrate has circumvented these claims so as to SCREAM "Liberty interest" when Plaintiff from the beginning contends that he has not claimed "Liberty interest", but has stated to the 11th Circuit Appeals Court that Liberty interest might be created at the adjudication of Complaint by Wheeler's case showing due process right in Equal Consideration, so as to not discriminate.

Wheeler contends that in 1994 (which is when Wheeler was sentenced) Wheeler's "Peers" that were sentenced after 1982 till 1994 were properly considered for parole review, and those that were denied were set off the max of 3 years which was applicable. Wheeler proving that his peers were treated differently in 1994 to Equal Consideration. Now the Defendants circumvent that law which cannot ever be changed retroactively, but defendants have now made the 5 year set off the normal procedure for "All" whom they so choose to, which denies prisoners sentenced between 1982-march 2001 "Equal Protection" denying Wheeler his 14th Amendment Rights. Magistrate Judge should Recuse himself because he denies Wheeler's proper claims, circumventing them so as to favor defendants response to claims of liberty interest. Wheeler has the right to be properly considered for parole. Wheeler seeks due relief, and Magistrate seeks to deny Wheeler relief **WITH- PREJUDICE*** showing grounds for recusation of Magistrate as plausible reason, and for credible basis supporting such action see this Courts Document #82-1 Page 19, #3, Also document #91 in this Court. Wheeler seeks to Appeal. Done this 30th day of April, 2007.

Mark Shannon Wheeler 139044
MARK Shannon Wheeler Plaintiff.

Certificate of Service

I hereby certify that I have mailed a copy of the same and served upon the defendants by 1st class prepaid U.S. mail addressed: Ala. Bd. of Pardons and Paroles "Legal Division" 301 South Ripley Street. P.O. Box 302405, Montgomery, AL. 36130, by placing the said same in the Kilby Prison "legal mail" box this the 30th day of April, 2007.

Mark Shannon Wheeler 139044
MARK Shannon Wheeler Plaintiff

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Ais #139044-I-5-B
Kilby Corr. Fac.
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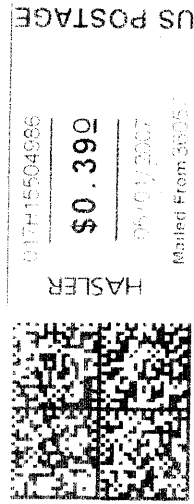
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LEGAL MAIL

"This correspondence is forwarded from an Alabama State Prison. The Department of Corrections is not responsible for the substance or content of the enclosed communication."

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In Re Case # 2:06-cv-274-MHT



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 United States District Court
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